

1 **PENALTY FOR MISUSE OF LAWFUL**
2 **SUBSTANCES**

3 2001 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: David L. Hogue**

6 **This act modifies the Criminal Code to establish the offense and penalty regarding abuse of**
7 **nitrous oxide. The act also increases the penalty for abuse of psychotoxic chemical solvents.**

8 This act affects sections of Utah Code Annotated 1953 as follows:

9 AMENDS:

10 **76-10-107**, as last amended by Chapter 30, Laws of Utah 1992

11 ENACTS:

12 **76-10-107.5**, Utah Code Annotated 1953

13 *Be it enacted by the Legislature of the state of Utah:*

14 Section 1. Section **76-10-107** is amended to read:

15 **76-10-107. Abuse of psychotoxic chemical solvents.**

16 (1) A person is guilty of abuse of psychotoxic chemical solvents if:

17 (a) For the purpose of causing a condition of intoxication, inebriation, excitement,
18 stupefaction, or the dulling of his brain or nervous system, he intentionally:

19 (i) smells or inhales the fumes of any psychotoxic chemical solvent; or

20 (ii) possesses, purchases, or attempts to possess or purchase any psychotoxic chemical
21 solvent.

22 (b) Knowing or believing that a purchaser or another intends to use a psychotoxic chemical
23 in violation of Subsection (1)(a), he sells or offers to sell any psychotoxic chemical solvent.

24 (2) This section shall not apply to the prescribed use, distribution, or sale of those
25 substances for medical or dental purposes.

26 (3) Abuse of psychotoxic chemical solvents is a class [B] A misdemeanor.

27 (4) As used in this section, psychotoxic chemical solvent includes any glue, cement, or



28 other substance containing one or more of the following chemical compounds: acetone and acetate,
 29 amyl nitrite or amyl nitrate or their isomers, benzene, butyl alcohol, butyl nitrite, butyl nitrate, or
 30 their isomers, ethyl alcohol, ethyl nitrite or ethyl nitrate, ethylene dichloride, isobutyl alcohol,
 31 methyl alcohol, methyl ethyl ketone, n-propyl alcohol, pentachlorophenol, petroleum ether, propyl
 32 nitrite or propyl nitrate or their isomers, toluene or xylene, or other chemical substance capable of
 33 causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of the brain
 34 or nervous system as a result of the inhalation of the fumes or vapors of such chemical substance.
 35 Nothing in this section shall be construed to include any controlled substance regulated by the
 36 provisions of Title 58, Chapter 37, Utah Controlled Substances Act.

37 Section 2. Section **76-10-107.5** is enacted to read:

38 **76-10-107.5. Abuse of nitrous oxide.**

39 (1) A person is guilty of abuse of nitrous oxide who:

40 (a) possesses nitrous oxide or any substance containing nitrous oxide, with the intent to
 41 breathe, inhale, or ingest for the purpose of:

42 (i) causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling
 43 of the senses; or

44 (ii) in any manner changing, distorting, or disturbing the audio, visual, or mental
 45 processes; or

46 (b) knowingly and with the intent to do so is under the influence of nitrous oxide or any
 47 material containing nitrous oxide.

48 (2) Subsection (1)(b) does not apply to any person who is under the influence of nitrous
 49 oxide or any material containing nitrous oxide pursuant to an administration for the purpose of
 50 medical, surgical, or dental care by a person holding a license under state law that authorizes the
 51 administration of nitrous oxide.

52 (3) A violation of this section is a class A misdemeanor.

Legislative Review Note

as of 2-2-01 9:30 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel